

REMARKS/ARGUMENTS

Applicants have reviewed and considered the final Office Action mailed on October 20, 2008, and the references cited therewith. Claims 21-23, 25-41, and 45-50 are currently pending in the application. Claims 21, 29, 37, 41, 45, and 49 are amended. Support for the claim amendments can be found in the claims as originally filed, and in the Applicants' patent application on at least page 19, line 9 - page 20, line 10, as well as Figures 8 and 9B. Reconsideration and full allowance of all pending claims are respectfully requested in view of the following remarks.

Double Patenting

Claims 21-23, 25-41, and 45-50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3-20 of co-pending U.S. Patent Application Number 11/200,837. Claims 21-23, 25-41, and 45-50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of co-pending U.S. Patent Application Number 11/004,586. Claims 21-23, 25-41, and 45-50 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-62 and 64-84 of co-pending U.S. Patent Application Number 10/818,468. Applicants request that these provisional rejections be held in abeyance pending the resolution of the allegedly conflicting claims.

Claim Rejections – 35 U.S.C. § 103

Claims 21-23, 25, 26, 29-34, 37-41, and 45-49 were rejected under 35 U.S.C. § 103 as obvious over U.K. Patent Application GB 2,307,180 (hereinafter "Hunt") in view of U.S. Patent 5,549,585 (hereinafter "Maher"), U.S. Patent 4,996,128 (hereinafter "Aldecoa"), and U.S. Patent 5,945,004 (hereinafter "Ohira"). This rejection is respectfully traversed.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead,

there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l. Co. v. Teleflex, Inc.*, 127 S.Ct. 1727 (U.S. Apr. 30, 2007) (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). Additionally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Neither Hunt, Maher, Aldecoa, nor Ohira teach or suggest all of the features of amended claim 21. Specifically, neither Hunt, Maher, Aldecoa, nor Ohira teach or suggest at least a perforated gas flow channel, wherein perforations are formed laterally through the gas flow channel. The Examiner cites elements 126, 127, 130, 606, and 607 against the feature of a perforated gas flow channel, each of which is illustrated in the following figures:

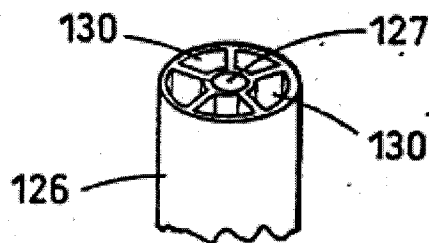


Fig. 5F

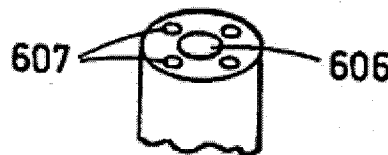


Fig. 6E

Hunt appears to disclose a portable pump for draining fluid from a wound dressing. Figures 5F and 6E appear to simply illustrate the ends of multi-lumen tubes. The multi-lumen tubes, as disclosed in Figures 5F and 6E and elsewhere in Hunt, differ from the claimed feature because no perforations are lateral through the multi-lumen tubes, as claimed in amended claim 21. Thus, Hunt fails to teach or suggest the feature of a perforated gas flow channel, "wherein perforations are formed laterally through the gas flow channel."

Maher fails to cure Hunt's lack of disclosure. Maher appears to disclose a suction drainage control system in which a gelling agent, absorbent, or germicide is released or dispensed into a disposable rigid container or flexible liner. However, Maher fails to teach or suggest the claimed perforated gas flow channel.

Aldecoa and Ohira fail to cure Hunt and Maher's lack of disclosure. Aldecoa appears to disclose a rechargeable battery and Ohira appears to disclose an apparatus for treating waste liquids containing body fluid, but neither reference teaches or suggests a perforated gas flow channel as claimed. Thus, Hunt, Maher, Aldecoa, and Ohira, alone or in combination, fail to teach or suggest all of the features of amended claim 21.

Because the same or similar arguments as those above may be applied to claims 29, 37, 41, and 45 with respect to the argued feature, the same distinctions between amended claim 21 and the cited references apply to claims 29, 37, 41, and 45. Because claims 22, 23, 25, 26, 30-34, and 38-40, and 46-49 depend from allowable claims 21, 29, 37, and 45, at least the same distinctions between the cited references and claims 21, 29, 37, and 45 apply for these claims as well. Additionally, claims 22, 23, 25, 26, 30-34, and 38-40, and 46-49 claim other features and combinations of features not disclosed by the references. Therefore, for at least these reasons, the rejection of claims 21-23, 25, 26, 29-34, 37-41, and 45-49 under 35 U.S.C. § 103 has been overcome. Reconsideration and favorable action are requested.

Claim Rejections – 35 U.S.C. § 103; Claims 27 and 35

Claims 27 and 35 were rejected under 35 U.S.C. § 103 as obvious over Hunt, Maher, Aldecoa, and Ohira in view of U.S. Patent 4,464,172 (hereinafter "Lichtenstein"). This rejection is respectfully traversed.

The rejection of claims 27 and 35 relies on the false premise that Hunt, Maher, Aldecoa, and Ohira teach or suggest all of the features of claims 21 and 29. However, as shown above, Hunt, Maher, Aldecoa, and Ohira fail to teach or suggest at least a perforated gas flow channel, wherein perforations are laterally through the gas flow channel. Lichtenstein does not cure Hunt, Maher, Aldecoa, and Ohira's lack of disclosure with respect to claims 21 and 29. Therefore, Hunt, Maher, Aldecoa, Ohira, and Lichtenstein fail to teach or suggest all of the features of claims 27 and 35, which depend from claims 21 and 29. Reconsideration and favorable action are requested.

Claim Rejections – 35 U.S.C. § 103; Claims 28 and 36

Claims 28 and 36 were rejected under 35 U.S.C. § 103 as obvious over Hunt, Maher, Aldecoa, and Ohira in view of U.S. Patent 5,741,237 (hereinafter “Walker”). This rejection is respectfully traversed.

The rejection of claims 28 and 36 relies on the false premise that Hunt, Maher, Aldecoa, and Ohira teach or suggest all of the features of claims 21 and 29. However, as shown above, Hunt, Maher, Aldecoa, and Ohira fail to teach or suggest at least a perforated gas flow channel, wherein perforations are laterally through the gas flow channel. Walker does not cure Hunt, Maher, Aldecoa, and Ohira's lack of disclosure with respect to claims 21 and 29. Therefore, for at least this reason, Hunt, Maher, Aldecoa, Ohira, and Walker fail to teach or suggest all of the features of claims 28 and 36, which depend from claims 21 and 29. Reconsideration and favorable action are requested.

Claim Rejections – 35 U.S.C. § 103; Claim 50

Claim 50 was rejected under 35 U.S.C. § 103 as obvious over Hunt, Maher, Aldecoa, and Ohira in view of U.S. Patent 6,530,472 (hereinafter “Hacikyan”). This rejection is respectfully traversed.

The rejection of claim 50 relies on the false premise that Hunt, Maher, Aldecoa, and Ohira teach or suggest all of the features of claim 21. However, as shown above, Hunt, Maher, Aldecoa, and Ohira fail to teach or suggest at least a perforated gas flow channel, wherein perforations are laterally through the gas flow channel. Hacikyan does not cure Hunt, Maher, Aldecoa, and Ohira's lack of disclosure with respect to claim 21. Therefore, for at least this reason, Hunt, Maher, Aldecoa, Ohira, and Hacikyan fail to teach or suggest all of the features of claim 50, which depend from claim 21. Reconsideration and favorable action are requested.

CONCLUSION

Applicant respectfully submits that the pending, non-withdrawn claims, claims 21-23, 25-41, and 45-50 are in condition for full and immediate allowance and the same is respectfully requested.

This Amendment is being filed as part of a Request for Continuing Examination (RCE). Although Applicant believes that no additional fee is due beyond those made with the RCE, to provide for the possibility that Applicant has overlooked the need for a fee, including a fee for an extension of time under 37 C.F.R. 1.136(a), the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 19-3140 of Sonnenschein Nath & Rosenthal LLP.

The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application. Any communication initiated under this paragraph should be deemed an "Applicant-Initiated Interview."

Respectfully submitted,



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Date: January 21, 2009

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